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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3276 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

INTERNATIONAL INSTRUMENTS LTD

Versus

STATE OF GUJARAT

Appearance:

MR JASHBHAI P PATEL for Petitioner
MS MANISHA L. SHAH, AGP instructed by MR MI HAVA
for Respondents No. 1 to 4.
MR RA MISHRA, advocate for Respondent no.5.

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 24/03/2000

ORAL JUDGEMENT

By means of filing this petition under Articles

226 & 227 of the Constitution, the petitioner has prayed to issue an appropriate writ, order or direction forbearing the respondents from taking any action for non-removal of Yenkey meters to satisfy the requirements of rule-226 of the Bombay Motor Vehicles Rules, 1959 and to direct them to issue permits to new auto-rickshaws fitted with Yenkey meters by quashing and setting aside order dated July 7, 1981 passed by the Director of Transport, Gujarat State, Ahmedabad as confirmed by the Appellant Authority and Secretary, Home Department, Gujarat State, Gandhinagar vide order dated May 17, 1983.

2. The petitioner is a limited Company and manufactures Yenkey taxi meters at Bangalore. It has an authorised distributor at Ahmedabad. The Regional Transport Authority, Ahmedabad Region, Ahmedabad had issued a notification dated February 20, 1962 requiring the permit holders of auto-rickshaws to fit approved meters on the rickshaws. The Director of Transport, Gujarat State, Ahmedabad had approved Yenkey fare meters for installation on auto-rickshaws in the State of Gujarat by order dated July 6, 1963. It may be stated that the Yenkey fare meters manufactured by the petitioner were approved under sub-rule (4) of Rule 222 of the Bombay Motor Vehicles Rules, 1959 ("the Rules" for short) for installation on auto-rickshaws in the State of Gujarat. The State of Gujarat amended the provisions of Rule 221 of the Rules. By the amended rule, it is provided that the auto-rickshaw should be fitted with a meter of the type which in the opinion of Director of Transport complies with the provisions of Rule 226 or is so designed or constructed that the constructional requirements specified in Rule 226 are complied with. The Director of Transport, Ahmedabad found that Yenkey meters being manufactured by the petitioner were not complying with the constructional requirements as specified in Rule-226 of the Rules. He, therefore, issued a notice dated June 16, 1981 calling upon the petitioner to show cause as to why approval accorded to Yenkey meters should not be revoked in exercise of powers under Rule 223 of the Rules. In response to the notice referred to above, no reply in writing was received from the petitioner, nor the petitioner had deputed any representative duly authorised in writing to represent its case before the Director of Transport, Ahmedabad. The Director of Transport, Ahmedabad considered relevant materials and concluded that Yenkey meters manufactured by the petitioner did not comply with the constructional requirements as specified in the Rules. In view of this conclusion, the Director of Transport, Ahmedabad revoked the approval accorded to Yenkey fare meters for

installation on auto-rickshaws in the State of Gujarat by an order dated July 7, 1981, which is produced at Annexure-G to the petition. Feeling aggrieved by the said order, the petitioner preferred an appeal before the Appellate Authority and Secretary, Home Department, Gujarat State, Gandhinagar. The appeal is also rejected by an order dated May 17, 1983, which is produced by the petitioner at Annexure-H to the petition. According to the petitioner, sufficient opportunity to show cause as to why approval accorded should not be revoked was not given to the petitioner and, therefore, the impugned orders are liable to be set aside. The petitioner has averred that installation of meters on auto-rickshaws is not a condition precedent for grant of permit to a new auto-rickshaw and, therefore, insistence on the part of the respondents that meters to be fitted on the auto-rickshaws should comply with the provisions of Rule 226 or should be so designed or constructed that the constructional requirements as specified in Rule 226 are complied with, is unreasonable. What is claimed is that the order passed by the Director of Transport as confirmed by the Appellate Authority is contrary to Rule 223 of the Rules and, therefore, the same should be set aside. Under the circumstances, the petitioner has filed present petition and claimed reliefs to which reference is made earlier.

3. Though the respondents are served, no reply is filed by any of them controverting the averments made in the petition. Mr. R.A.Mishra, learned Counsel for the newly added respondent has produced simple copy of judgment dated March 10, 1971 rendered by the learned Single Judge of this Court in Special Civil Application No. 1389/70 and pleaded that in view of the directions given by High Court in that petition, the present petition should be dismissed.

4. I have heard the learned Counsel for the parties and taken into consideration the relevant documents which form part of the record of the petition as well as judgment rendered by the learned Single Judge of this Court on March 10, 1971 in Special Civil Application No. 1389/70. The submission that the petitioner was not granted sufficient opportunity to show cause as to why approval granted to Yenkey fare meters should not be revoked, has no substance. As observed earlier, after amendment of the Rules, Director of Transport, Ahmedabad was satisfied that Yenkey meters manufactured by the petitioner did not comply with the constructional requirements as specified in Rule 226 of the Rules and, therefore, he had issued a notice dated June 16, 1981 to

the petitioner calling upon the petitioner to show cause as to why approval accorded earlier should not be revoked. It is not the case of the petitioner that the said notice was not received by it. On the contrary, it is specifically mentioned in the order of Director of Transport that inspite of notice having been received duly, no representation was made by the petitioner. This statement of fact recorded in the order of Director of Transport is not challenged in the petition. As observed in the order of Director of Transport dated July 7, 1981, in response to the show-cause notice, neither any reply was filed by the petitioner, nor any authorised representative was deputed by the petitioner to represent its case before the Director of Transport, Ahmedabad. Thus, the petitioner had failed to avail of an opportunity of being heard which was afforded to it by the Director of Transport, Ahmedabad. Therefore, the plea that no reasonable opportunity of being heard was given by the Director of Transport, Ahmedabad before revoking the approval granted to installation of Yenkey fare meters, cannot be accepted and is rejected. A bare reading of the judgment dated March 10, 1971 rendered by the learned Single Judge of this Court in Special Civil Application No. 1389/70 indicates that certain social workers, who were using auto-rickshaws for the purpose of travelling from one place to another, had filed that petition challenging the approval granted to Yenkey fare meters manufactured by the petitioner. That petition was allowed by the learned Single Judge and following operative order was passed :

"The petition is, therefore, allowed. A writ of mandamus shall be issued directing the Director of Transport, Gujarat State to cancel the approval granted by him to Yenkey type of meters as it is in violation of Rules 221, 222 & 226 of the Bombay Motor Vehicle Rules, 1959. Rule is made absolute with costs."

This judgment of the learned Single Judge was challenged before Division Bench in Letters Patent Appeal No. 167/71. The appeal was disposed of as withdrawn by the Division Bench vide order dated December 9, 1971. A xerox copy of judgment dated March 10, 1971 delivered by the learned Single Judge (Coram : S.H.Sheth,J.) in Special Civil Application No. 1389/71 and a xerox copy of order passed in Letters Patent Appeal No.167/71 on December 9, 1971 by the Division Bench are ordered to be taken on record of the case. Thus, the directions which were given by the learned Single Judge in Special Civil Application No. 1389/70 had become final. In view of

the amended provisions of the Rules, it is mandatory that every auto-rickshaw should be fitted with a meter of the type which in the opinion of the Director of Transport complies with the provisions of Rule 226 or is so designed or constructed that the constructional requirements as specified in Rule-226 are complied with. The conclusion of the Director of Transport, Ahmedabad that Yenkey meters manufactured by the petitioner did not comply with the constructional requirements specified in Rule-226 of the Rules, is not liable to be set aside in a petition which is filed under Article 226 of the Constitution because the Court does not exercise appellate powers under Article 226 of the Constitution and is least equipped to decide such technical matters. As observed earlier, the order passed by the Director of Transport, Ahmedabad is confirmed by the Appellate Authority vide its order dated May 17, 1983, which roughly runs into closely typed 16 pages. The reading of appellate order makes it more than clear that all the points which were urged by the learned Counsel for the petitioner were taken into consideration by the Appellate Authority and negatived by giving elaborate reasons. Mr. R.A.Mishra, learned Counsel for Narhariprasad Maganlal Dave, who has filed Civil Application No.3096/83 in Special Civil Application No. 3276/83 with a prayer to implead Mr. Dave as one of the respondents in the petition, states at the Bar that Special Civil Application No. 3298/83 raising same dispute has been dismissed by Hon'ble Mr. Justice M.S.Shah by judgment dated March 24, 2000. It may be observed that Motor Vehicles Act is a composite legislative measure covering all aspects relating to motor vehicles and the rule requiring that an auto-rickshaw should be fitted with a meter of the type which in the opinion of the Director of Transport complies with the provisions of Rule 226 or is so designed or constructed that the constructional requirements as specified in Rule 226 are complied with, is in the interest of passengers. Such a beneficial provision can hardly be regarded as arbitrary or unreasonable. Since fare meter is also a piece of equipment, rule 226 requiring that only that meter should be fitted on an auto-rickshaw which is so designed or constructed that constructional requirements as specified in Rule 226 are complied with, is neither illegal nor unjust. As observed by the Appellate Authority, in the early 60s, the auto-rickshaws plying as public service vehicles in Gujarat State were not fitted with any meter and, therefore, the State Government had decided some time in 1962-63 that as a matter of convenience to the public and to prevent cheating by the auto-rickshaw drivers, meters should be fitted in the auto-rickshaws

running as public service vehicles and as there was some difficulty in getting flag meters as well as in view of representation of the Auto-rickshaw Drivers' Society, the State Government had decided to permit the use of Yenkey meters, even though they were not conforming to the requirements of rule 226 of the Ru

whose meters do not fulfil the requirements of statutory rules, cannot insist that fare meters manufactured by it should be permitted to be installed on the auto-rickshaws and the respondents should be directed to issue permits to new auto-rickshaws fitted with Yenkey meters. The result of the amendment made in the Rules is that any meter which is installed in the auto-rickshaw has to comply with the requirements of Rule 226. On overall view of the matter, I am of the opinion that the petitioner is not entitled to the reliefs claimed in the petition and the petition is liable to be dismissed.

For the foregoing reasons, the petition fails and is dismissed. Rule is discharged, with no order as to costs.

(J.M.Panchal,J.)

(patel)